

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

DOUGLAS HANDSHOE

PLAINTIFF

VS.

CIVIL ACTION NO. 1:15cv382HSO-JCG

VAUGHN PERRET, CHARLES LEARY &  
DANIEL ABEL, D/B/A TROUT  
POINT LODGE LTD OF NOVA SCOTIA  
& IN THEIR INDIVIDUAL CAPACITIES  
PROGRESS MEDIA GROUP LIMITED,  
MARILYN SMULDERS, TORSTAR  
CORPORATION, NATIONAL  
GEOGRAPHIC SOCIETY, XYZ  
FOUNDATION & JOHN DOES 1-50

DEFENDANTS

**MOTION OF DEFENDANT TORSTAR CORPORATION TO DISMISS PLAINTIFF'S  
FIRST AMENDED COMPLAINT FOR DAMAGES, DECLARATORY AND  
INJUNCTIVE RELIEF**

Defendant Torstar Corporation ("Torstar"), by and through its attorneys, moves to dismiss Plaintiff's First Amended Complaint for Damages, Declaratory and Injunctive Relief ("Complaint") under Fed. R. Civ. P. 12(b)(2) for lack of personal jurisdiction. Alternatively, Torstar moves to dismiss the Complaint under Fed. R. Civ. P. 12(b)(6) because the Complaint fails to state a claim upon which relief can be granted. In support of this Motion, Torstar states:

1. Plaintiff is a Mississippi resident who owns Slabbed New Media, LLC and publishes an online weblog at [www.slabbed.org](http://www.slabbed.org) in Mississippi. *See* Compl., at ¶¶2, 31.

2. Torstar Corporation is a Canadian company; its subsidiary operates an online news site titled *The Toronto Star* in Canada. *Id.* at ¶9.

3. Plaintiff's Complaint primarily concerns a series of Digital Millennium Copyright Act ("DMCA") takedown notices for alleged copyright infringements.

4. The Digital Millennium Copyright Act, (DMCA), entitled the "Online Copyright

Infringement Liability Limitation Act," permits service providers who maintain websites to avoid copyright infringement liability for storing users' content if, among other requirements, a service provider removes or disables the content after receiving notification from a copyright holder that the content is infringing. *See* 17 U.S.C. §512(c).

5. As to Torstar, Plaintiff attempts to allege that it "conspired" to send a December 31, 2012 takedown notice. But the takedown notice, on its face, states that it was submitted by Charles Leary of Trout Point Lodge—a co-defendant in this action.

6. Torstar did not author the takedown notice, and it did not authorize any person or entity to send any takedown notice on its behalf.

7. Torstar's only connection to this case stems from the fact that the photograph claimed to be protected by Canadian copyright was published at one point in *The Toronto Star* and is maintained, without controversy, on its website.

8. Plaintiff's Complaint should be dismissed because the Court lacks personal jurisdiction over a Canadian defendant.

9. In the alternative, Plaintiff's Complaint should be dismissed because it fails to state any claim upon which relief can be granted as to Torstar.

10. In support of this Motion, Torstar relies upon the pleadings in this action, its concurrently filed Memorandum of Law and the following exhibits:

Exhibit A: *The Toronto Star's* Article entitled "N.S. Court Orders Mississippi Blogger to Pay Gay Couple \$425,000";

Exhibit B: Plaintiff's Complaint against Torstar;

Exhibit C: This Court's Memorandum Opinion and Order dismissing Plaintiff's Complaint against Torstar;

Exhibit D: Declaration of Bert Bruser on behalf of Torstar Corporation;

Exhibit E: The December 31, 2012 takedown notice; and

Exhibit F: The January 3, 2013 Counter-Notification

**WHEREFORE**, Torstar prays that the Court will dismiss Plaintiff's Complaint for lack of personal jurisdiction or, in the alternative, for failure to state a claim upon which relief can be granted. Torstar also requests any further, general or specific relief as may be deemed appropriate.

Respectfully submitted, this 1st day of March, 2016.

TORSTAR CORPORATION

By: s/Robert C. Galloway

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**CERTIFICATE OF SERVICE**

I, Robert C. Galloway, one of the attorneys for Torstar Corporation, hereby certify that I have this date electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following counsel for record:

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**Attorney for Defendant National Geographic Society**

So certified, this 1st day of March, 2016.

*s/Robert C. Galloway*  
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